

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

UNITED STATES OF AMERICA,

*Plaintiff,*

v.

GREG ABBOTT, in his capacity as  
GOVERNOR OF THE STATE OF TEXAS,  
and THE STATE OF TEXAS,

*Defendants.*

Case No. 1:23-cv-00853-DAE

**[PROPOSED] ORDER**

Having duly considered Plaintiff the United States' Opposed Motion to Dismiss Defendants' Counterclaim, Strike Defendants' Constitutional Defense, Strike Jury Demand and Advisory Jury Request, and for Leave to File, and Defendants' response thereto, the Court hereby **GRANTS** this motion. Accordingly, **IT IS HEREBY ORDERED** that:

- (1) The United States is granted leave to file the aforesaid motion, notwithstanding any provision of the Court's scheduling order entered on March 5, 2024 (ECF 97);
- (2) Defendants' Counterclaim (ECF 120 at 7-11) is **DISMISSED** without prejudice for lack of subject-matter jurisdiction;
- (3) Defendants' constitutional defense, enumerated as defense No. 2 in its Answer (ECF 120 at 6) is **STRICKEN**;
- (4) Defendants' jury demand (ECF 120 at 6) is **STRICKEN**; and
- (5) Defendants' advisory jury request (ECF 120 at 6-7) is **DENIED**.

**IT IS SO ORDERED.**

SIGNED on this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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Hon. David Alan Ezra  
Senior United States District Judge